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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,940	02/22/2002	Nobuyoshi Yazawa	15311	2191

7590 07/31/2006

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

EXAMINER

CZEKAJ, DAVID J

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/081,940	Applicant(s) YAZAWA ET AL.	
	Examiner Dave Czekaj	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/14/06 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 18-35 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (5776049) in view of Takamura et al. (5876326), (hereinafter referred to as "Takamura").

Regarding claim 18, Takahashi discloses an apparatus that relates to a stereo endoscope (Takahashi: column 1, lines 9-11). This apparatus comprises "an optical system including at least one optical lens for obtaining an optical image of a subject"

(Takahashi: figure 2a, wherein the optical system is the objective optical system), "an optical system support member" (Takahashi: figure 2A, wherein the optical system support member is the optical system driving means), "an imaging element for capturing an optical image" (Takahashi: figure 2A, wherein the imaging element is the CCD which captures the image of the subject), "an imaging element support member" (Takahashi: figure 2A, wherein the support member is the CCD driving means), and "a tubular member comprising a first and second end, defining an innerspace extending between the first and second end, the optical system being hermetically joined to the first end the imaging element being joined to the second end" (Takahashi: figure 10a, wherein the tubular member is shown). Takahashi further discloses "relative movements of the optical system and the imaging support member in a direction along an optical axis of the optical system and in a direction perpendicular to the optical axis of the optical system" (Takahashi: figure 2A, wherein the movements are indicated by the left, right, up, and down arrows). However, this apparatus lacks the bellows portion as claimed. Takamura teaches that in order to incorporate electromagnetic countermeasures into prior art endoscopes, many man-hours and steps are required (Takamura: column 2, lines 7-10). To help alleviate this problem, Takamura discloses an apparatus containing a "bellows portion being deformable while maintaining the airtight seal of the inner space" (Takamura: figure 14, item 152, column 12, lines 10-14, column 15, lines 46-54). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Takahashi and add the

bellows member taught by Takamura in order to obtain an apparatus that requires less effort and steps for better protecting endoscopes against outside influences.

Regarding claim 19, Takahashi discloses "an optical system fixing portion for fixing the optical system and frame member defining an inner space in which the optical system fixing portion is located, the frame member being joined to the tubular member" (Takahashi: figure 10A, wherein the optical system is fixed or joined to the tubular member).

Regarding claim 20, Takahashi discloses "an imaging element fixing portion for fixing the imaging element and frame member defining an inner space in which the fixing portion is located" (Takahashi: figures 4-5).

Regarding claims 21-23 and 25-26, Takahashi discloses "an adjusting mechanism for moving the optical system and imaging system relative to each other" (Takahashi: figures 2A, 4, 5, column 7, lines 17-29, wherein the adjusting mechanism is the driving means).

Regarding claim 24, Takahashi in view of Takamura disclose "an adjusting frame member" (Takamura: figure 14, wherein the adjusting frame member is the bellows portion) such that "the optical system and imaging system move relative to each other" (Takahashi: figures 2A, 4, 5, column 7, lines 17-29).

Regarding claim 27, note the examiners rejection for claims 19 and 25.

Regarding claim 28, note the examiners rejection for claims 20 and 26.

5. Claims 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (5776049) in view of Takamura et al. (5876326), (hereinafter referred to as

"Takamura") in further view of MacKinnon et al. (6110106), (hereinafter referred to as "MacKinnon").

Regarding claims 29 and 34, note the examiners rejection for claim 18, and in addition, claims 29 and 34 differ from claim 18 in that claims 29 and 34 further require a filter unit. MacKinnon teaches that prior art imaging systems are bulky systems and have a limited dynamic range (MacKinnon: column 2, lines 8-15). To help alleviate this problem MacKinnon discloses a filter unit for selecting one of a plurality of observation states" (MacKinnon: figures 4A and 4C, wherein the filter unit is the filter 18). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the filter unit in order to more accurately adjust the amount of light within the apparatus.

Regarding claims 30-32, although not disclosed, it would have been obvious for the observation states to include normal light, enlarged, and fluorescent light (Official Notice). Doing so would have been obvious in order to be able to use the apparatus under a variety of conditions.

Regarding claim 33, MacKinnon discloses "the filter unit defines a plurality of openings, each of the openings comprising a lens" (MacKinnon: column 20, lines 26-28).

Regarding claim 35, note the examiners rejection for claim 18, and in addition, MacKinnon discloses "the filter unit defines a plurality of openings, the endoscope apparatus further comprises a filter unit moving mechanism to move the filter unit" (MacKinnon: column 20, lines 14-20, wherein the moving mechanism is the knobs).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Monday - Friday 9 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJC

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